



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
81 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

APR 07 2015

**UPS & ELECTRONIC MAIL**

Mr. Ignacio Garin  
Manager Sulfur Derivatives  
Akzo Nobel Functional Chemicals, LLC  
525 West Van Buren Street  
Chicago, Illinois 60607

Dear Mr. Garin:

Based upon information gathered by the U. S. Environmental Protection Agency, through on-site inspections, responses to information requests, and review of state files, it appears that Akzo Nobel Functional Chemicals, LLC, is not in compliance with Clean Air Act (CAA) requirements at its facility located at 13440 Highway 43 North, Axis, Alabama. Specifically, EPA is concerned about the Axis, Alabama facility's compliance with CAA Prevention of Significant Deterioration (PSD) requirements with respect to the projects of concern on Enclosure A. These projects concern physical changes and/or changes in the method of operation that resulted in emissions increases for the sulfuric acid plant at the Axis facility. The purpose of this letter is two-fold, to require Akzo Nobel to provide further information relating to the projects of concern, and second, to offer Akzo Nobel the opportunity to meet to discuss EPA's concerns relating to these projects.

Section 114(a) of the CAA, 42 U.S.C § 7414(a), authorizes the Administrator of the EPA to require any person who owns or operates an emission source, whom the Administrator believes may have information necessary for the purposes of Section 114(a), or who is subject to any requirement of the CAA, to provide such information as the Administrator may reasonably require for the purpose of carrying out any provision of the CAA. This authority has been duly delegated to the Director of the Air, Pesticides, and Toxics Management Division, Region 4.

Therefore, pursuant to Section 114(a), Akzo Nobel is directed to respond to the enclosed Information Request (Enclosure B) within thirty (30) days of receipt of this Section 114 Information Request. The EPA, for good cause shown, may extend the deadline for responding to the request. The response to the information requested must be accompanied by the enclosed Statement of Certification (Enclosure D), which is to be signed by a responsible official of Akzo Nobel. You should respond to this Information Request as completely as possible. The response must be delivered to the EPA or be postmarked no later than the above deadline. Send one complete copy of your response, including supporting documentation, to the following address:

**Nikki Radford  
Air Enforcement & Toxics Branch  
U.S. EPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303**

Under 40 C.F.R. Part 2, Subpart B, you may assert a business confidentiality claim covering part or all of the information you submit, other than emissions data and information or data that is otherwise publicly available, as described in 40 CFR 2.203(b). The page, paragraph, and sentence must be identified for any information subject to a claim of business confidentiality. If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. Enclosure C specifies the assertion and substantiation requirements for business confidentiality claims. Please note that if the EPA receives a Freedom of Information Act request for information you claim to be business confidential, or wants to determine whether such information is entitled confidential treatment, you will be required to bear the burden of substantiating your confidentiality claim. See 40 C.F.R. § 2.204(a) and (d). In those instances, you will be given an opportunity to submit comments on your claim by responding to 11 questions in Enclosure C. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. Failure to submit your comments by the deadline in the letter will be regarded as a waiver of your confidentiality claim, and the EPA may release the information.

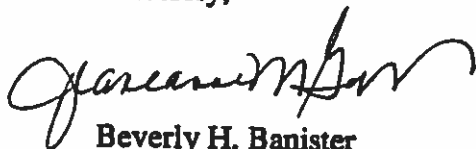
Failure to comply fully with this request for information is a violation of Section 114 of the CAA and could result in an enforcement action for the recovery of civil penalties not to exceed \$37,500 per day, per violation, or for injunctive relief or both. Section 113, 42 U.S.C. § 7413, of the CAA gives the EPA the authority to seek criminal penalties from any person who knowingly makes any false statement, representation, or certification in any report required under the CAA.

This request is not subject to the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq., because it seeks collection of information from specific individuals or entities as part of an administrative action or investigation.

The second purpose of this letter is to offer Akzo Nobel an opportunity to meet and discuss the compliance issues identified in this letter, consistent with Region 4's longstanding practice. To ensure the effectiveness of the meeting, Akzo Nobel should come prepared to discuss all information it considered in developing emissions calculations and determining PSD applicability along with documentation to clarify the company's viewpoint. Please contact Nikki Radford, North Air Enforcement & Toxics Section at (404) 562-9099 within 14 days of receiving this letter if you would like to opportunity to meet with EPA. In addition, if you have any questions relating to this Information

Request, you may consult with Nikki Radford at (404) 562-9099 or by email at [radford.nicole@epa.gov](mailto:radford.nicole@epa.gov) prior to the deadline for your response. Thank you for your cooperation in this matter.

Sincerely,



Beverly H. Banister

Director

Air, Pesticides & Toxics Management Division

cc: Mr. James A. Lofton  
U. S. Department of Justice

Ms. Katherine Rahill  
Akzo Nobel, Inc.

Mr. John Naron  
Akzo Nobel Functional Chemicals, LLC

cc w/o Enclosure A: Ron Gore  
Alabama Department of Environmental Management  
Division for Air Quality



ENCLOSURE A

**Confidential Business Information (CBI) - withheld**



## **ENCLOSURE B INFORMATION REQUEST**

For purposes of this information request, the definitions set forth in Section II shall apply and should be considered carefully by you in preparing your responses.

### **I. INSTRUCTIONS:**

1. Please provide a separate narrative response to each question and subpart of a question set forth in this Information Request and precede each answer with the number of the question to which it corresponds.
2. If requested information or documents are not known or are not available to you at the time of your response to this Information Request, but later become known or available to you, you must supplement your response to the EPA. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete, or misrepresents the facts; you must provide the EPA with a corrected response as soon as possible.
3. Requested information can be submitted in electronic form if applicable.
4. Where specific information has not been memorialized in a document, but is nonetheless responsive to a Request, you must respond to the Request with a written response.
5. The information requested herein must be provided even though Akzo Nobel may contend that it includes possible confidential information or trade secrets. Please see Enclosure C for information on how to assert and substantiate a claim of business confidentiality. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to you.
6. If information responsive to this Information Request is not in your possession, custody or control, then identify the person from whom such information may be obtained.
7. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.

### **II. DEFINITIONS:**

1. The term "you" or "Akzo Nobel" shall include Akzo Nobel Functional Chemicals, LLC, its parent corporation(s) and subsidiaries, the addressees of this Request, and the officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents of the above corporations.
2. "Facility" means all physical structures and equipment owned and/or operated by Akzo Nobel, located at 13440 Highway 43 North, Axis, Alabama.
3. "Sulfuric Acid Plant" means all physical structures and equipment at the Facility that are used to produce sulfuric acid.

4. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
5. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
6. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee(s) and/or recipient, and the substance or the subject matter.
7. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
8. The term "document" means any object that records, stores, or presents information, and includes writings, memoranda, records, or information of any kind, formal or informal, whether wholly or partially handwritten or typed, whether in computer format, memory, or storage device, or in hard copy, including any form or format of these; including (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure, notation, annotation, or the like on it, (c) attachments to or enclosures with any document, and (d) every document referred to in any other document.

### **III. INFORMATION REQUEST:**

You are hereby required, in accordance with Section 114(a) of the Act, 42 U.S.C. § 7414(a), to provide the following information for Akzo Nobel's Sulfuric Acid Plant in Axis, Alabama, to the extent you have not already provided it to Region 4.

1. With respect to project number 1 on Enclosure A:
  - A. Did you consider whether this project was subject to requirements of PSD, 42 U.S.C. § 7470-7479, and implementing regulations, before or during the project? If so, provide all documents related to this consideration.
  - B. Provide all emissions estimates/projections/calculations associated with this project;
  - C. Provide all documents relevant to the project's impact or potential impact on Sulfuric Acid Plant production;
  - D. Provide all documents relevant to problems with the equipment that was replaced;
  - E. Provide all documents relating to, and including, correspondence with Alabama Department of Environmental Management (ADEM), concerning this project, including calculations and project descriptions shared with ADEM;
  - F. Describe, and provide all documents relating to, the potential emissions changes in sulfur dioxide, sulfur trioxide and sulfuric acid mist (SO<sub>2</sub>, SO<sub>3</sub> and H<sub>2</sub>SO<sub>4</sub>, respectively) as a result of the project; and
  - G. Describe, and provide all documents relating to, actual emission changes in SO<sub>2</sub>, SO<sub>3</sub> and H<sub>2</sub>SO<sub>4</sub> after the project.



after the project.

2. With respect to project number 2 on Enclosure A:

- A. Did you consider whether this project was subject to requirements of PSD, 42 U.S.C. § 7470-7479, and implementing regulations? If so, provide all documents associated with such review.
- B. Provide all emissions estimates/projections/calculations associated with this project, including all information you considered relevant in developing such emissions estimates/projections/calculations;
- C. Provide all documents relating to, and including, correspondence with ADEM concerning this project, including calculations and project descriptions shared with ADEM;
- D. Provide all documents relevant to the project's impact or potential impact on Sulfuric Acid Plant production;
- E. Provide all SO<sub>2</sub> modeling and ambient monitoring data for the Sulfuric Acid Plant and/or the Axis Facility;
- F. Provide daily acid production data from February 12, 2013, to the present. Please, provide this information in electronic format that may be edited by a spreadsheet program such as Microsoft Excel;
- G. Provide monthly acid production data from March 2013 to the present. Please, provide this information in electronic format that may be edited by a spreadsheet program such as Microsoft Excel;
- H. Provide SO<sub>2</sub> emissions data in tons on a monthly basis from March 2013 until the present. Please, provide this information in electronic format that may be edited by a spreadsheet program such as Microsoft Excel;
- I. Provide all recent stack test results from March 2013 until the present;
- J. Provide the hourly measurement of each parameter monitored by the Continuous Emissions Monitoring system each day since February 19, 2013. Please provide this information in an electronic format that may be edited by a spreadsheet program such as Microsoft Excel or comparable software;
- K. Describe, and provide all documents related to, emission of SO<sub>2</sub>, SO<sub>3</sub> and H<sub>2</sub>SO<sub>4</sub> after the project;
- L. Provide all forecasts/estimates/projections of sulfuric acid sales from 2003 forward; and,
- M. Provide all forecasts/estimates/projections of sulfuric acid production from 2003 forward.

**ENCLOSURE C**  
**CONFIDENTIAL BUSINESS INFORMATION (CBI)**

**Assertion and Substantiation Requirements**

**I. ASSERTION REQUIREMENTS**

You may assert a business confidentiality claim covering part or all of the information you submit, other than emissions data and information or data that is otherwise publicly available, as described in 40 CFR 2.203(b). If no business confidentiality claim accompanies the information when it is received by EPA, EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Clean Air Act (the Act), and 40 C.F.R. Part 2, Subpart B. The EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as "Personal Privacy Information" given that disclosure of such information to the general public may constitute an invasion of privacy.

**II. SUBSTANTIATION REQUIREMENTS**

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information.

EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.

10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). 40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

Information designated confidential will be disclosed by EPA only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

## **ENCLOSURE D**

**This is to be signed and dated by a responsible official of Akzo Nobel.**

### **STATEMENT OF CERTIFICATION**

**I hereby certify that the foregoing responses and information provided to the EPA in response to its Clean Air Act, Section 114, Information Request were prepared under my direction or supervision and that I have personal knowledge of all matters set forth in the responses and the accompanying information or that I consulted with individuals having personal knowledge (note, please identify such individuals). I certify that the responses are true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.**

\_\_\_\_\_  
**Signature and Date**

\_\_\_\_\_  
**Printed Name and Title**

